

1           David T. Tran  
2           4396 Formosa St.  
3           Jurupa Valley, CA 92509  
4           (415) 497-8534  
5           [trantdavid@gmail.com](mailto:trantdavid@gmail.com)

6  
7  
8           David T. Tran, In Pro Per  
9  
10

---

8           **UNITED STATES DISTRICT COURT**  
9           **CENTRAL DISTRICT OF CALIFORNIA**

---

10           **David T. Tran,**

11           CASE NUMBER: 5:17-cv-00583-JGB-DTBx

12           )     **AMENDMENT TO ORIGINAL**  
13           )     **COMPLAINT, PURSUANT TO**  
14           )     **F.R.C.P. 15(a)(1)(A)**  
15           )

16           Plaintiff,

17           )     **COMPLAINT FOR DAMAGES FOR:**  
18           )

19           )     ) 1) BREACH OF IMPLIED-IN-FACT  
20           v.     )     ) CONTRACT;  
21           )     ) 2) BREACH OF CONTRACT (twice);  
22           )     ) 3) FRAUD (constructive or intentional);  
23           )     ) 4) MISREPRESENTATION;  
24           )     ) 5) BREACH OF FIDUCIARY DUTIES;

25           **Ross University School of Medicine** ) 6) BREACH OF COVENANT;  
26           )     ) 7) CALIFORNIA'S UNFAIR  
27           )     ) COMPETITION LAW (in violation of);  
28           )     ) 8) CALIFORNIA EDUCATION CODE  
            Defendant     )     ) § 94814 (in violation of);  
            )     ) 9) NEGLIGENCE;  
            )     ) 10) INFILCTION OF EMOTIONAL  
            )     ) DISTRESS;  
            )     ) 11) REHABILITATION ACT OF 1973 (as  
            )     ) amended) (in violation of);  
            )     ) 12) TITLE VI, CIVIL RIGHTS ACT OF  
            )     ) 1964 (in violation of)

29  
30           **REQUEST FOR JURY TRIAL**

1

2 **PARTIES, JURISDICTION, and VENUE**

3

4. David T. Tran (PLAINTIFF) brings suit before the District Court *pro se*  
5 and *in forma pauperis*. Suit meets federal diversity jurisdiction, pursuant to 28  
6 U.S.C. § 1332, since PLAINTIFF (currently domiciled in California and at the time  
7 the causes of action arose) and ROSS (a corporation with a principal place of  
8 business in a US state outside of California) are citizens/corporations of different  
9 States AND the amount in controversy exceeds the minimum threshold of \$75,000.  
10 Suit also meets federal question jurisdiction, pursuant to 28 U.S.C. § 1331, since  
11 some causes of action arise “under the Constitution, laws, or treaties of the United  
12 States.” Furthermore, suit meets personal jurisdiction according to “minimum  
13 contacts”, pursuant to C.C.P. § 410.10, and would not “offend traditional notions of  
14 fair play and substantial justice” and would not “violate the nonresident defendant’s  
15 constitutional right to due process” (See *International Shoe Co. v. Washington*  
16 (1945)). ROSS does not have difficulties in obtaining legal representation as it is  
17 evident that it has an extensive legal network within the state of California and has  
18 law firms that represent ROSS and its sister or parent corporations. Also,  
19 PLAINTIFF lacks the financial resources to file suit in a different locale and would  
20 create an immense burden on PLAINTIFF, thus making suit within this district  
21 “fair” for both parties. Supplementary jurisdiction is also met, pursuant to 28  
22

1 U.S.C. § 1337, since any matters that meet personal and subject jurisdictional  
2 requirements can be brought forth in federal court. In all, subject matter (under  
3 diversity jurisdiction) and personal jurisdictional requirements are met and are  
4 **explained in ¶ 2-7 below.**

5  
6  
7  
8 2. The defendant, Ross University School of Medicine (hereinafter referred  
9 to as ROSS), is a private, for-profit medical school with administrative offices in  
10 the County of Broward, Florida, at 2300 SW 145th St., Suite 200, Miramar, Florida  
11 30027 and in the County of Middlesex, New Jersey, at 485 US Highway 1 South,  
12 Building B 4th Floor, Iselin, New Jersey 08830. The CEO/president of ROSS,  
13 Steven P. Riehs, holds office at the corporate headquarters of DeVry Education  
14 Group (the parent company of ROSS), in the County of DuPage, Illinois, at 3005  
15 Highland Parkway, Downers Grove, Illinois 60515. ROSS also conducts its Basic  
16 Sciences (16 months) portion of the 4-year medical curriculum on the East  
17 Caribbean island of Dominica, Lesser Antilles, where the causes of action arose  
18 from **(but were initiated in California)**. The medical school dean's office is  
19 located at the Florida address. Hence, ROSS has administrative offices in the US  
20 and significantly recruits students from regional offices throughout the US,  
21 including California. Furthermore, ROSS is registered as a foreign business entity  
22 to perform business within the US as part of DeVry Medical International, Inc., and  
23  
24  
25  
26  
27  
28

1 can receive service of process at the Illinois address (addressed to the  
2 CEO/president) and possibly in other US states where it holds administrative  
3 offices. It is uncertain of ROSS' principal place of business, but it is reasonably  
4 assumed that it is in the US state of Illinois (since the Supreme Court concluded  
5 that the phrase "principal place of business" for purposes of federal diversity  
6 jurisdiction refers to "the place where the corporation's high-level officers direct,  
7 control, and coordinate the corporation's activities" (See *Hertz Corp. v. Friend* ,  
8 175 L. Ed. 2d 1029, 1034 (U.S. 2010)), either as a separate entity OR as part of  
9 DeVry Medical International, Inc., which comprises of (NOT as a parent  
10 organization) 2 different medical schools, Ross University School of Medicine and  
11 the American University of the Caribbean. **HENCE, federal diversity jurisdiction**  
12 **is met.** The listed address on the summons (US state of New Jersey) is of one of the  
13 administrative offices of ROSS and provided for during student recruitment. It is  
14 also essential to realize that ROSS "came to PLAINTIFF" and that PLAINTIFF did  
15 not "come to them" for recruitment and solicitation purposes. Therefore, ROSS  
16 solicited a product (in the form of education) to a Californian (the plaintiff) in  
17 California.

18  
19  
20  
21  
22  
23  
24  
25  
26 3. California "state court jurisdiction over the person of a defendant is  
27 dependent upon three factors: (1) jurisdiction of the state in the constitutional sense;  
28

1 (2) due process in the form of adequate notice and the opportunity for a hearing;  
 2 and (3) compliance with the state's statutory requirements for the service of  
 3 process" (1 Witkin, Cal. Procedure (2d ed. 1970) Jurisdiction, § 75, p. 600; Li, Cal.  
 4 Jurisdiction and Process (Cont. Ed. Bar 1970) pp. 16-17.

5  
 6  
 7  
 8 4. Although it is certain that ROSS' principal place of operations is outside of  
 9 California, this state (California) has "personal jurisdiction" (*in personam*) over  
 10 ROSS under the 'minimum contacts' doctrine, pursuant to C.P.P. § 410.10, since  
 11 ROSS conducts ongoing and substantial business within this state via various  
 12 recruitment methods, including the use of graduate school information seminars,  
 13 on-campus graduate school information sessions and booths, advertisements by  
 14 posting on university billboards, mailing prospective and admitted students catalogs  
 15 and brochures, electronic communications with students and prospective students  
 16 from California (including PLAINTIFF), and online advertisements; see *Hall v.*  
 17 *LaRonde* (1997) 56 CA4th 1342, 1344. With respect to C.P.P. § 410.10, the section  
 18 "manifests an intent to exercise the broadest possible jurisdiction. The  
 19 constitutional perimeters of this jurisdiction are found in the decisions of the United  
 20 States Supreme Court" (see *Michigan National Bank v. Superior Court*, 23 Cal.  
 21 App. d3 1 [99 Cal. Rptr. 823]). Relevant to the causes of action, ROSS' affirmative  
 22 conduct of performing business within California directly led to the recruitment of  
 23  
 24  
 25  
 26  
 27  
 28

1 PLAINTIFF. Substantial communication between both parties occurred while  
2 PLAINTIFF was present in and a resident of California (and during recruitment  
3 activities). Hence, it is clear that ROSS also meets the “purposeful availment”  
4 prong under ‘minimum contacts’, attempting to avail itself of forum benefits.  
5 Although the ‘actual’ events constituting the causes of action occurred in a  
6 jurisdiction outside of the United States of America, it is immaterial since ROSS  
7 meets personal jurisdiction requirements in this state and the ‘minimum contacts’ is  
8 relevant to the causes of action (9) and would promote judicial fair play and  
9 substantial justice (see *Luberski, Inc. v. Oleficio F.LLI Amato S.R.L.*, 171 Cal. App.  
10 4th 409, 89 Cal. Rptr. 3d 774 (4th Dist. 2009)). Furthermore, although not related  
11 to the causes of action, ROSS has hospital affiliations in the state of California,  
12 including Kern Medical Center in Bakersfield, California and California Hospital  
13 Medical Center in Los Angeles, California. Also, ROSS conducted an admissions  
14 interview with PLAINTIFF at one of its proprietor’s (DeVry Education Group)  
15 locations in San Diego, California. Hence, although the causes of action arising out  
16 of the relationship between PLAINTIFF and ROSS were carried out and performed  
17 in the Commonwealth of Dominica, the causes of actions were initiated in  
18 Riverside County, California (and where solicitation of ROSS’ educational services  
19 and recruitment took place). Moreover, a “state has power to exercise judicial  
20 jurisdiction over a nonresident individual (or corporation) who does business in the  
21  
22  
23  
24  
25  
26  
27  
28

1 state with respect to causes of action that do not arise from the business done in the  
2 state if this business is so continuous and substantial as to make the exercise of such  
3 jurisdiction reasonable ... and it is immaterial whether a state has power to prevent  
4 a nonresident from doing business within its territory, or to regulate such business,  
5 or whether the business involves interstate commerce. The question in each case is  
6 whether an individual has a *sufficient relationship* to the state arising out of such  
7 business that makes it reasonable for the state to exercise judicial jurisdiction over  
8 the individual as to the particular cause of action" (see C.C.P. § 410.10(7)). The  
9 'minimum contacts' principle also applies to foreign corporations, which includes  
10 out-of-state and out-of-country corporations and that due process requires that  
11 relationships between a nonresident defendant and the forum state be such that it is  
12 fair and reasonable to require that defendant to submit to suit in the state (see  
13 *Cornelison v. Chaney*, 16 Cal. 3d 143, 127 CAL. Rptr. 352, 545 P.2d 264 (1976)).  
14  
15 Hence, jurisdiction of the state is met in the constitutional sense.

16  
17  
18  
19  
20  
21 5. Service of process on ROSS will have occurred once proof of service has  
22 been filed. Hence, the requirement for due process in the form of adequate notice  
23 and the opportunity for a hearing will have been met.

24  
25  
26  
27 6. Finally, C.C.P § 416.10 provides for service of process on corporations

1 generally. It makes no distinction between corporations, foreign or domestic,  
2 resident or nonresident. [27 Cal. App. 3d 150]. Furthermore, the section reads:  
3

4 i. "A summons may be served on a corporation by  
5 delivering a copy of the summons and of the complaint; (a) To the  
6 person designated as agent for service of process as provided by any  
7 provision of Sections 3301 to 3303, inclusive, or Sections 6500 to  
8 6504, inclusive, of the Corporations Code; (b) To the president or other  
9 head of the corporation, a vice president, a secretary or assistant  
10 secretary, a treasurer or assistant treasurer, a general manager, or a  
11 person authorized by the corporation to receive service of process ... "  
12

13 ii. Service of process on ROSS will have occurred under  
14 subdivision (a) or (b) of C.C.P. § 416.10 once proof of service has been  
15 filed.  
16

17 iii. Hence, compliance with the state's statutory requirements  
18 for the service of process will have been met.  
19

20 **HENCE, personal jurisdiction requirements are met.**  
21

22  
23  
24 7. Furthermore, suit meets federal question jurisdiction (although it is not  
25 necessary since diversity jurisdiction is already met as explained above) since there  
26 are 2 causes of action that involves the violation of civil rights, namely Title VI of  
27  
28

1 the Civil Rights Act of 1964 and the Rehabilitation Act of 1973 (as amended).  
2 Violation of these statutes are primarily responsible for depriving PLAINTIFF of  
3 his personal liberties as a citizen of the United States of America. ROSS must  
4 comply with the ADA and civil rights laws since it accepts federal financial  
5 assistance from the US Department of Education. Furthermore, the Office for Civil  
6 Rights (US Department of Education) explicitly states that a complainant has “the  
7 right to file a lawsuit in federal court regardless of the outcome of a case decided on  
8 initially by the Office for Civil Rights.” This is relevant because PLAINTIFF  
9 originally filed a complaint against ROSS with the Office for Civil Rights, which  
10 was dismissed as a result of PLAINTIFF being completely naive of the legal  
11 system and submitting a complaint under extreme distress, hoping to find a quick  
12 solution. Hence, PLAINTIFF files suit due to exhaustion of all previous remedies.  
13  
14  
15  
16  
17  
18

19 8. Venue is proper pursuant to 28 U.S.C. 1331(b)(2), because a substantial part  
20 of the events or omissions giving rise to these claims occurred in this district and  
21 defendant is a corporation [that] shall be deemed to reside in any judicial district in  
22 which it is subject to personal jurisdiction at the time the action is commenced. In a  
23 State which has more than one judicial district and in which a defendant that is a  
24 corporation is subject to personal jurisdiction at the time an action is commenced,  
25 such corporation shall be deemed to reside in any district in that State within which  
26  
27  
28

1 its contacts would be sufficient to subject it to personal jurisdiction if that district  
2 were a separate State, and, if there is no such district, the corporation shall be  
3 deemed to reside in the district within which it has the most significant contacts (28  
4 U.S.C. § 1391(c)). ROSS recruited PLAINTIFF within this district (Riverside  
5 County) via a graduate school information booth (where PLAINTIFF spoke to an  
6 admissions representative) and advertising fliers at the University of California,  
7 Riverside (PLAINTIFF's undergraduate institution), Riverside, California, 92521.  
8 PLAINTIFF accepted an admissions offer from ROSS and paid a seat deposit (both  
9 via electronic e-mail and payment) in April 2010. Furthermore, venue is proper  
10 since "a civil action against a foreign state as defined in 28 U.S.C. § 1603(a) may  
11 be brought in *any* judicial district in which the agency or instrumentality is licensed  
12 to do business or is doing business, if the action is brought against an agency or  
13 instrumentality of a foreign state as defined in 28 U.S.C. § 1603(b). Hence,  
14 'minimum contacts' pursuant to C.P.P. § 410.10 are met for this state and district  
15 even though PLAINTIFF brings forth a case involving diversity jurisdiction.  
16 Finally, jurisdiction in California and place of court venue in the Central District of  
17 California would promote judicial "fair play and substantial justice", not only  
18 because of 'minimum contacts', but for PLAINTIFF's limited financial resources  
19 and the presence of ROSS' extensive legal network (which also represents its  
20 parent company, DeVry Education Group and its various subsidiaries) within  
21  
22  
23  
24  
25  
26  
27  
28

1 California. Hence, it would be inappropriate for ROSS to file a motion for *forum  
2 non conveniens* since it would not promote fair play and substantial justice. At this  
3 time, PLAINTIFF was a resident at 5254 Marlatt St., Mira Loma, CA 91752,  
4 Riverside County. PLAINTIFF currently resides at 4396 Formosa St., Jurupa  
5 Valley, CA 92509, Riverside County. **HENCE, venue is proper.**  
6  
7  
8

9 9. Suit is deemed timely since “date of injury” did not occur until PLAINTIFF  
10 was academically dismissed for the second time in May 2013 and “can be held to  
11 be ‘injured’ only when the accumulated effects … manifests themselves” (see,  
12 *Accord, Urie v. Thompson*, 337 U.S. 163 (1949) (construing “accrual” in the  
13 Federal Employers’ Liability Act)). Such “date of injury” interpretations was first  
14 implemented in a California court case (see, *Associated Indem. Corp. v. Industrial*  
15 *Accident Comm’n*, 124 Cal. App. 378, 12 P.2d 1075 (2d Dist. 1932). In essence,  
16 PLAINTIFF would not be inclined to file suit if he was not affected by the cause of  
17 actions. Furthermore, PLAINTIFF was not inclined to file suit while on the island  
18 of Dominica due to the rigorous nature of the medical curriculum (and the fear of  
19 potential biases being in a foreign country, including but not limited to racial  
20 motivation, and the economic growth ROSS brings to its surrounding communities)  
21 until he returned to the mainland U.S. in May of 2013. However, the statutes may  
22 be tolled up to January of 2014 since a second complaint filed with the US  
23  
24  
25  
26  
27  
28

1 Department of Education's Office for Civil Rights by PLAINTIFF concluded in  
2 January of 2014 after his second academic dismissal in May of 2013. Finally,  
3 PLAINTIFF initially filed suit against ROSS on September 15, 2016, in the  
4 Superior Court of California, Riverside County, which was voluntarily dismissed  
5 by PLAINTIFF on September 22, 2016, due to his uncertainty on the actual  
6 defendant to sue as a result of the complexity of the defendant's organization  
7 structure. PLAINTIFF then filed another suit against DeVry Medical International,  
8 Inc., one of ROSS' sister corporations, on September 22, 2016, in the Superior  
9 Court of California, Riverside County. This case was removed by DeVry Medical  
10 International, Inc., pursuant to 28 U.S.C. § 1441, to the Central District Court of the  
11 United States, Eastern Division (Case No. 5:16-cv-02262). This case was  
12 voluntarily dismissed by PLAINTIFF on November 1, 2016. On December 1, 2016,  
13 PLAINTIFF re-filed suit against ROSS in the Superior Court of California,  
14 Riverside County. This case was voluntarily dismissed by PLAINTIFF on February  
15 1, 2017, after in which PLAINTIFF decided to file in federal court on March 27,  
16 2017. All cases dismissed were done so without prejudice. Since the "time" does  
17 not accrue during periods of tolling and for 30 days after a case is dismissed (and if  
18 later re-filed), pursuant to 28 U.S.C. § 1367(d), accrual only occurred from January  
19 of 2014 through September 15, 2016 (2 years, 7 months), and from March 4, 2017  
20 through March 26, 2017 (23 days). All civil actions brought within 4 years after the  
21  
22  
23  
24  
25  
26  
27  
28

1 date of accrual (or less than 4 years of total accrual) of the cause of actions meeting  
2 federal jurisdiction shall be considered timely, pursuant to 28 U.S.C. § 1658.  
3  
4

5 **GENERAL BACKGROUND**

6 10. PLAINTIFF was medically diagnosed with Obsessive-Compulsive  
7 Disorder (OCD) during high school and requires reasonable academic  
8 accommodations under 34 C.F.R. § 104.44, in order to minimize the effects his  
9 disability on his ability to perform academically.  
10  
11

12  
13 11. PLAINTIFF is an “otherwise qualified” individual with a physical or  
14 mental impairment that substantially limits one of “major life activities” under  
15 Section 504 of the Rehabilitation Act of 1973 (as amended), in particular his  
16 difficulties with concentration arising from the nature of his disability (OCD).  
17 Furthermore, ROSS is to comply with Section 504 since it is a program that  
18 receives federal financial aid funding from the US Department of Education.  
19  
20

21  
22 12. A minimum 2.00 GPA is required by the end of the fourth semester of  
23 studies in order to advance to clinical studies beginning the fifth semester. If this  
24 “GPA factor” is not met by the conclusion of the fourth semester, the student is  
25 subject to academic dismissal.  
26  
27  
28

1

2 **STATEMENT OF FACTS AND HISTORY**

3

4

5 13. During his first semester in 2011, PLAINTIFF suffered from disability  
6 discrimination, resulting from the inability of ROSS to provide reasonable  
7 academic accommodations as required under 34 C.F.R. § 104.44. PLAINTIFF had  
8 provided supporting documentation and was entitled to accommodations to  
9 minimize the effects his disability had on a “major life activity” as mentioned in §  
10 504, concentration. A very reasonable accommodation would be time extensions on  
11 examinations, which was not granted despite PLAINTIFF’s request for such time  
12 extensions based on his difficulty with concentration during examinations  
13 compared to other students.

14

15

16

17

18

19 14. As result of the occurring violations(s), PLAINTIFF was unable to  
20 perform to the best of his abilities given the circumstances since examinations  
21 taken during the first semester measured his disability rather than his acquired  
22 knowledge. PLAINTIFF was forced to “bubble” in answers as time ran out. Failing  
23 his examinations ultimately led to his academic dismissal in April of 2011 after his  
24 first semester of attendance for “poor academic performance”.

25

26

27

28

15. PLAINTIFF filed a complaint with the Office for Civil Rights (OCR) during the summer of 2011, alleging disability discrimination for reasons mentioned in ¶ 13-14.

16. Both parties agreed to undergo an Alternative Dispute Resolution (ADR) and the ECR agreement was reached on October 21, 2011. Later, however, it was realized by PLAINTIFF that the agreement was “lopsided” in several aspects.

17. PLAINTIFF re-matriculated at ROSS in January of 2012, repeating as a first semester student and was given reasonable academic accommodations. With the help from such accommodations, PLAINTIFF was able to pass all of his courses. At the end of the semester, however, PLAINTIFF realized that the three “F” grades received in 2011 were actually averaged into the overall GPA. Hence, although passing all of his courses, PLAINTIFF’s GPA remained well below the minimum 2.00 required by the end of the fourth semester to advance to the clinical semesters beginning the fifth semester.

18. During the re-attempt of his first semester, however, it was brought to the attention of PLAINTIFF that the underlying nature of the ECR agreement was unjust, fraudulent, misrepresented, and oppressive for reasons mentioned below:

1  
2 a. ROSS failed to disclose to PLAINTIFF during ADR of any  
3 grading policy changes that took into effect beginning January of  
4 2012 for incoming matriculants. The change in grading policies  
5 would make it much more difficult for PLAINTIFF to progress  
6 through the medical school curriculum and attain the minimum  
7 overall 2.00 GPA required by the end of the fourth semester.  
8 This does not taking into account the 3 “F” grades received in  
9 2011 when PLAINTIFF was not given reasonable academic  
10 accommodations, which would be averaged into the overall  
11 GPA, thus making it even more difficult to achieve the minimum  
12  
13 “GPA factor”.

14  
15  
16 b. A clause within the ECR agreement was formed out of fraud and  
17 deceit that negatively affected PLAINTIFF’s chances of  
18 progressing through the medical curriculum successfully.  
19 Furthermore, the interpretation of the clause from PLAINTIFF’s  
20 perspective was different from that of ROSS’. Hence, in addition  
21 to the presence of fraud in formation of the clause, “meeting of  
22 the minds” was absent as well. However, this clause cannot be  
23  
24  
25  
26  
27  
28

1 disclosed as of yet due to the confidentiality clause within the  
2 agreement.  
3  
4

5 19. Very concerned about the change in grading policies, PLAINTIFF  
6 immediately e-mailed the school's academic dean (the Dean), Dr. Joseph Flaherty,  
7 regarding the issue. The Dean denied PLAINTIFF's request to get the issue  
8 remedied, mentioning that such requests were "without merit". Hence, not only was  
9 PLAINTIFF battling with the tougher grading policy changes upon his  
10 re-matriculation, there was also the obstacle of overcoming the three "F" grades  
11 received in 2011 that were averaged into his overall GPA.  
12  
13

14  
15  
16 20. Displeased and distraught over the matter, PLAINTIFF filed another  
17 complaint with OCR, alleging disability discrimination. However, the allegations  
18 were not considered for evaluation because PLAINTIFF failed to mention how the  
19 change in grading policies constituted disability discrimination since OCR only has  
20 jurisdiction regarding protected statutes such as race, color, sex, age, and disability.  
21  
22

23  
24 21. From May through August of 2012, PLAINTIFF passed all of his  
25 second and third semester courses, although marginally. Marginally passing is still  
26 considered "passing" and students have been promoted to the clinical semesters  
27  
28

despite marginal or near marginal performance. However, the inability of the Dean to revert the grading policies for PLAINTIFF caused a major distraction. Given the nature of PLAINTIFF's disability and the effect it had on his ability to concentrate, such distractions were only exacerbated. Despite the distractions, PLAINTIFF managed to pass all of his courses by way of being granted time extensions during his examinations and persevering under adverse circumstances. Hence, PLAINTIFF could have performed better academically but for the major distractions than what results actually show on an academic transcript.

22. During his fourth semester (January of 2013 through April of 2013), PLAINTIFF experienced some minor personal issues, but also significant fears of racial or personal discrimination as a result of unfair treatment towards him in one of his courses, thus creating an extremely hostile environment unconducive to learning that proved to be detrimental to PLAINTIFF's psychological and emotional well-being.

23. One of the instructors in the ICM subportion of CCSB, Dr. Worrell Sanford, was thought to have racially discriminated against PLAINTIFF. With the instructor being a native of Dominica, a country at the time, and still perhaps today, with significant anti-Chinese sentiment, it could easily be construed that there was

racism involved, particularly with several stereotypical notions made from the instructor, even though PLAINTIFF is of Vietnamese descent. Such allegations may be seen as speculative although such speculations are supported by strong and reasonable inferences. Despite such speculations, some form of prejudice or discrimination did indeed exist in the form of unfair treatment towards PLAINTIFF and another “Chinese” (east asian) student. Lastly, it was not uncommon for PLAINTIFF to experience blatant racial discrimination while in Dominica for being “Chinese”, even from within ROSS and its community.

24. PLAINTIFF was often inappropriately reprimanded and belittled by Dr. Sanford, whereas other students (despite PLAINTIFF performing to the level similar or better to that of other students within the ICM subportion) were not. As a result, the instructor gave PLAINTIFF 3 “poor” grades, which would automatically constitute failure in the ICM subportion, hence, failure from the entire CCSB course. Such targeted mistreatment inflicted severe psychological trauma, thus causing PLAINTIFF to miss several class meetings due to fear of further negative treatment from the instructor and his inability to sleep. Furthermore, the “feeling” of being discriminated upon had devastating psychological and emotional consequences as well. **Learner mistreatment** (mistreatment of medical students, residents, or fellows in the hands of clinical instructors, staff, or administration) has

1       become more of an issue within medical academic settings for which schools are  
2       now attempting to appropriately address.  
3  
4

5       25. PLAINTIFF's psychological ill-health brought him to see Ms.  
6       Catherine McCarthy, LCSW, one of the clinical counselors at ROSS. Ms.  
7       McCarthy described PLAINTIFF as suffering from a "grave" psychological state.  
8       She also wrote "letters of excuse" for PLAINTIFF after missing mandatory CCSB  
9       activities due to the rapid deterioration in his mental health.  
10  
11

12  
13       26. A couple of weeks prior to the final examination, Dr. Lynn Sweeney,  
14       one of several CCSB coordinators, arranged a meeting with PLAINTIFF and Ms.  
15       McCarthy. At the meeting, Ms. McCarthy reiterated that it was essential that people  
16       around PLAINTIFF provided support for him, including ROSS, stemming from the  
17       severe psychological adversity PLAINTIFF was experiencing.  
18  
19

20  
21       27. With issues in the ICM subportion, one of the clinical directors, Dr.  
22       Philip Cooles investigated the issue and determined that there were dilemmas with  
23       the "student-instructor" interaction and that PLAINTIFF's three "poor" grades  
24       would not count against him. At the same time, the only other east asian student in  
25       the class section was also receiving arbitrary "poor" grades, which was determined  
26       27  
28

1 to not count against him due to issues with the “student-instructor” interaction as  
2 well. Furthermore, PLAINTIFF was allowed to relocate to a different section and  
3 instructor for ICM. However, relocation was granted towards the end of the  
4 semester when much psychological damage had already occurred. It is also  
5 important to note that almost everyone, historically, easily passes the ICM  
6 subportion and a student receiving even one “poor” grade is very uncommon.  
7  
8

9  
10 28. Concurrently, PLAINTIFF also had the burden of dealing with multiple  
11 unexcused absences in CCSB activities due to his psychological and emotional  
12 instability stemming from Dr. Sanford’s arbitrary behavior. By missing a certain  
13 amount of mandatory CCSB activities (aside from the three “poor” grades),  
14 PLAINTIFF was at risk of failing the course as well. Hence, one could fail CCSB  
15 by either receiving at least three “poor” grades or having at least two unexcused  
16 absences.  
17  
18

19  
20  
21 29. Concerned, PLAINTIFF emailed the Dean regarding his issue with his  
22 former ICM professor, hoping that one of the unexcused absences would be  
23 “overlooked” and pardoned so that PLAINTIFF could pass the CCSB course (the  
24 three “poor” grades were already pardoned at this point in time by Dr. Philip  
25 Cooles). The Dean did not respond until PLAINTIFF sent him a different e-mail  
26  
27  
28

1 depicting a “sobbing” story, hoping that by taking responsibility rather than  
2 *seeming* to make an excuse for academic troubles, the Dean would pardon the  
3 unexcused absences. PLAINTIFF was reluctant to further mention issues regarding  
4 his interactions with Dr. Sanford and the emotional and psychological ramifications  
5 stemming from such interactions due to fear of retaliation and lack of trust in the  
6 administration. Hence, accepting responsibility seemed like the only safe route at  
7 the time. The Dean actually replied with “I’ll try my best, but I can’t promise you  
8 anything.” The Dean never replied thereafter regarding his decision to overlook the  
9 unexcused absences.

13  
14  
15 30. A week prior to the final examination, some faculty members  
16 recommended PLAINTIFF to take a leave-of-absence (LOA), which would allow  
17 PLAINTIFF to start anew the following term. Once a student takes the final  
18 examination, he or she cannot file for LOA. However, PLAINTIFF was extremely  
19 hesitant to file for LOA based on particular circumstances that administration failed  
20 to take into account;

23  
24 a. Taking an LOA would be redundant because PLAINTIFF was  
25 informed less than a week prior to the final examination that he  
26 was already subject to dismissal based on his failure in CCSB as  
27  
28

1 a result of missing a certain number of mandatory activities.

2 Furthermore, Dr. Matthew Nelson mentions that there was the  
3 possibility of PLAINTIFF being dismissed for not meeting the  
4 minimum 2.00 “GPA factor”. However, Dr. Nelson failed to  
5 realize that PLAINTIFF’s chances of meeting the criterion was  
6 highly unlikely. PLAINTIFF even mentions this to  
7 administration, but further advice was not given. Simply put it,  
8 PLAINTIFF was forced in such a difficult situation due to  
9 ROSS’ inability to counsel PLAINTIFF of his academic  
10 difficulties (as perceived by ROSS prior to semester 4) and  
11 inform him that he was unlikely to advance to the fifth semester  
12 since his GPA was too low, making it difficult to attain the  
13 minimum 2.00 required by the end of semester 4. PLAINTIFF  
14 saw nothing wrong with his academic performance since he  
15 continued to pass all of his courses after being given academic  
16 accommodations upon his re-admission in 2012.

17

18

19

20

21

22

23

24 b. After meeting with a financial aid counselor, ROSS failed to  
25 properly counsel PLAINTIFF regarding his question of whether  
26 repeating the fourth semester would require him to re-pay tuition  
27

28

1 (around \$19,000 at the time) and how it would affect his  
2 financial aid status upon re-enrollment.  
3  
4

5 c. Furthermore, it was questionable to whether or not the “GPA  
6 factor” would be overlooked even if he were to repeat and pass  
7 all of his courses since nearly perfect grades were required in  
8 order to meet the “GPA factor”, a feat that seemed unlikely  
9 based on PLAINTIFF’s past academic history. If not, then  
10 PLAINTIFF would inevitably incur more debt upon facing  
11 another academic dismissal. Moreover, it did not make logical  
12 sense that ROSS made it seem like there was a possible benefit if  
13 PLAINTIFF were to take the final examination since ROSS  
14 knew that he had already failed CCSB well in advance of the  
15 final examination and that failure in one course constituted an  
16 impossibility of advancing to the subsequent semester the  
17 following term. The best scenario would be to repeat. However,  
18 PLAINTIFF was still awaiting a reply from the Dean about his  
19 failure in CCSB due to the distressing situation in the course so  
20 that he would not have to repeat the following semester. Two  
21 failures automatically constituted an “subject to dismissal”  
22  
23  
24  
25  
26  
27  
28

1 status. Unfortunately, however, PLAINTIFF failed one course  
2 (“Reproduction and Integumentary”) as a result of the final  
3 examination, which constituted, at that time, a “subject to  
4 dismissal” status for failing that course and CCSB and  
5 “Reproduction and Integumentary”. At this point, PLAINTIFF  
6 was hoping the Dean would overlook the failure in CCSB so that  
7 he could repeat the following term rather than having a “subject  
8 to dismissal” status.

13 d. Deciding on the next course of action given the small time frame  
14 to make such pressuring and pivotal decisions considering the  
15 unreliability of ROSS’ recommendations, PLAINTIFF was very  
16 hesitant in filing for LOA due to the disconcerting and  
17 discombobulating administrative situation with ROSS.

21 31. PLAINTIFF studied for the final examination despite the  
22 overwhelming distractions and administrative uncertainties that were eminent at the  
23 time. PLAINTIFF took the final examination on March 24, 2013. As a result of the  
24 examination, PLAINTIFF failed one of his courses, “Reproduction and  
25 Integumentary” (as mentioned in ¶ 30, subpart c), by 2 percentage points.

1  
2 32. Following the examination, it was brought to PLAINTIFF's attention  
3 that some questions on the examination were accessible to students prior to the  
4 examination as recycled questions from leaked study guides. Such questions were  
5 not pointed out in class or were not present in any official class files, thus making it  
6 unfair for the PLAINTIFF since he did not have access to these questions. This  
7 could be significant since outside accessibility could have altered the class curve  
8 for the minimum passing score or could have allowed PLAINTIFF to overcome the  
9 2 percentage points (equivalent to one question) if given access to those questions.  
10  
11  
12

13  
14 33. At this point (after the final examination), PLAINTIFF had already  
15 received two "F" grades, one in CCSB and the other in "Reproduction and  
16  
17 Integumentary".  
18  
19

20 34. As stated in OCR's determination of a complaint later filed in 2013  
21 (after Plaintiff's second academic dismissal), the Dean mentions that it would have  
22 been "mathematically impossible" for PLAINTIFF to attain the minimum 2.00  
23 GPA even if he repeated the fourth semester in order to advance to clinical studies.  
24 Hence, the "GPA factor" was crucial in determining if PLAINTIFF was to be  
25 promoted to the clinical semesters or not, and that his situation was no exception to  
26  
27  
28

1 the rule. Furthermore, Dr. Nelson also mentions the “GPA factor” in an e-mail  
2 dated on March 14, 2013.  
3  
4

5 35. Accordingly, the Student Handbook (the Handbook) mentions that “At  
6 appropriate points in the educational process, the faculty reviews the progress of  
7 each student in order to identify any academic difficulties that may exist or are  
8 developing.” This is relevant because ROSS failed to counsel PLAINTIFF of any  
9 potential academic issues even though he was in jeopardy of another academic  
10 dismissal even if PLAINTIFF were to pass all of his fourth semester courses since  
11 his overall GPA was still well under 2.00 (because ROSS egregiously factored the  
12 three “F” grades received in 2011 when PLAINTIFF was not given reasonable  
13 accommodations into his overall GPA) despite successfully progressing to  
14 subsequent semesters upon his re-admission.  
15  
16

17 36. Since PLAINTIFF was a marginal to average student (on record) at  
18 best after re-matriculating in 2012, the administration was obligated to notify him  
19 of his academic situation because nearly “straight A” grades were required of  
20 PLAINTIFF during the fourth semester to reach the minimum 2.00 GPA required  
21 to advance to the fifth semester. It was assumed by PLAINTIFF that, by passing all  
22 of his courses after re-matriculation while given reasonable academic  
23  
24

1 accommodations and that administration had not yet warned him of any academic  
2 troubles, he was performing satisfactorily.  
3  
4

5 37. The inability of ROSS to counsel PLAINTIFF of his academic  
6 situation, taking into account the “GPA factor”, meant that PLAINTIFF incurred  
7 unnecessary time as an enrolled student, money spent, and the stress of being a  
8 medical student. Essentially, ROSS’ conduct led to PLAINTIFF’s detriment,  
9 particularly from events during his fourth semester of attendance that would prove  
10 to have long-term psychological and emotional consequences.  
11  
12

13 38. Furthermore, it was questionable to the actual grounds leading to  
14 PLAINTIFF’s status of “subject to dismissal”. Since ROSS factored in the three  
15 “F” grades received in 2011 (into his overall GPA) when PLAINTIFF was not  
16 given reasonable academic accommodations, it was easily and reasonably assumed  
17 that the failed courses then culminated as one offence. Two offences constitutes an  
18 academic dismissal according to the Handbook. Hence, PLAINTIFF was under the  
19 reasonable impression that anymore offences, including one more “F” grade, was  
20 grounds for a “subject to dismissal” status.  
21  
22  
23  
24  
25  
26  
27  
28

1       39. This assumption was somewhat affirmed when PLAINTIFF was  
2       notified that he had failed CCSB a week prior to the final examination, while  
3       awaiting a reply from the Dean, hoping that he would pardon the unexcused  
4       absences, similar to Dr. Cooles dismissing the “poor” grades due to “extenuating  
5       circumstances” and the unfortunate situation with Dr. Sanford. Although  
6       PLAINTIFF assumed that he had already committed his second offence, it was  
7       urged and recommended by faculty members that PLAINTIFF file for LOA.  
8       However, it would be redundant to file for LOA since PLAINTIFF had already  
9       committed his second offence and would be “subject to dismissal” regardless.  
10       Hence, this was one of the reasons PLAINTIFF was also hesitant in filing for LOA  
11       due to high uncertainty and the inability of ROSS to provide proper and sound  
12       guidance, particularly during a time when PLAINTIFF was experiencing immense  
13       psychological and emotional distress, and incapable of making rational decisions in  
14       his best interests.

20  
21       40. Accordingly, it remains uncertain (due to the ambiguity of the ECR  
22       agreement) to what actually triggered the “subject to dismissal” status because it  
23       was later implied that PLAINTIFF’s failure in CCSB was his first offence and the  
24       “F” grade received as result of the final examination (“Reproduction and  
25       Integumentary”). If this were the case, it would have made PLAINTIFF’s decision  
26  
27  
28

1 to file for an LOA a lot easier since the second offence would have been avoided  
2 by not sitting for the final examination. This could be the reason why it was  
3 recommended to take the LOA. However, filing for LOA would mean PLAINTIFF  
4 still must attain nearly “straight A” grades upon his return in repeat of his fourth  
5 semester, a feat that seemed highly unlikely based on prior semester performances,  
6 in order to reach the minimum 2.00 GPA requirement to advance to clinical studies  
7 beginning the fifth semester. Hence, ROSS did not counsel PLAINTIFF when they  
8 were obligated to do so, particularly in reference to the 2.00 “GPA factor” in prior  
9 semesters and that a major improvement was required.

13

14

15 41. Regardless of the ambiguous nature of PLAINTIFF’s “subject to  
16 dismissal” status, ROSS is liable for creating a *hostile* learning environment,  
17 evidenced by PLAINTIFF’s interactions with his ICM instructor and the inability  
18 of the Dean to justly revert the grading policies (when it was intentionally or  
19 negligently concealed to his awareness during ADR that new grading policies were  
20 to take effect upon his readmission), thus giving rise to overwhelming distractions  
21 his entire time as a student, thus negatively exacerbating his substantially limited  
22 “major life activity” of concentration. In essence, PLAINTIFF was never able to  
23 solely focus on his studies his entire duration at ROSS, even in 2011 when he was  
24 distraught and extremely distracted over the fact that he was not receiving adequate  
25  
26  
27  
28

1 and reasonable academic accommodations. Hence, PLAINTIFF did not “fairly” fail  
2 any semesters on his own merits, neither in 2011 or 2013. PLAINTIFF was never  
3 given a fair opportunity to succeed in medical school.  
4

5

6 42. By implementing a new grading policy without notifying the  
7 PLAINTIFF upon his readmittance, the effects of arbitrary behavior,  
8 discrimination, and the inability of ROSS to abide by its own written rules to  
9 provide proper guidance and to mention any perceived academic deficiencies, and  
10 the unjust nature of the contents and in formation of the ECR agreement,  
11  
12 PLAINTIFF’s dismissal is not genuinely an academic decision. Furthermore, the  
13 decisions leading up to the dismissal were egregious, oppressive, arbitrary and  
14 capricious, and shows a lack of regard for persons with disabilities and students in  
15 general. Furthermore, such conduct illustrates the “for-profit” mindset of ROSS.  
16 Such conduct from ROSS eventually led to PLAINTIFF’s detriment as exemplified  
17 by his unjust and unreasonably harsh academic dismissal.  
18  
19

20  
21  
22  
23 43. After being dismissed again in April 2013, PLAINTIFF underwent  
24 internal grievance procedures with ROSS, but the dismissal was upheld. Without  
25 success, PLAINTIFF filed another complaint during that summer with OCR,  
26 alleging disability discrimination and retaliatory acts committed by ROSS.  
27  
28

1  
2 44. The case went to mediation again, but an agreement could not be  
3 reached this time. As a result, the case went to investigation. Not being legally  
4 versed, lacking a strong understanding of the legal system, and facing a distressing  
5 situation, PLAINTIFF presented incoherent claims, particularly claims not  
6 supporting disability discrimination. Consequently, the allegations were dismissed  
7 along with the case and PLAINTIFF had exhausted his legal options with OCR by  
8 January 2014.  
9  
10  
11  
12  
13  
14

15 45. After the conclusion of the case filed with OCR, PLAINTIFF  
16 underwent a lengthy period of depression. He was diagnosed, in addition to his  
17 pre-existing diagnosis of Obsessive-Compulsive Disorder (OCD), with Recurrent  
18 Major Depression by his psychiatrist, Dr. Mandeep Reddy, M.D. on March 5, 2014.  
19  
20  
21

22 46. PLAINTIFF has suffered an immense amount of emotional distress,  
23 pain and suffering, and psychological damage resulting from the oppressive  
24 conduct of ROSS.  
25  
26  
27  
28

47. PLAINTIFF continues to have daily feelings of doubt, shame,  
embarrassment, and insecurity.

1  
2       48. The relationship between PLAINTIFF and his spouse has been a very  
3 negative one. Heated arguments take place nearly daily due to the PLAINTIFF's  
4 frustration and the greater expectations the spouse has of him. There have been  
5 periods of short separation between the couple. It has come to a point, in which  
6 both are only together "for the kids". Also, PLAINTIFF has been unable to be  
7 sexually intimate with his spouse as often as before.

8  
9  
10  
11  
12       49. The plan while PLAINTIFF was in medical school was for his spouse  
13 to quit her job in order to take care of the children and raise them. However, the  
14 incident with ROSS required his spouse to look for a new job and to work full-time  
15 to financially support the family since PLAINTIFF was unable to find work,  
16 particularly with his emotional and psychological ill-health and inability to cope  
17 with his dismissal at ROSS. Furthermore, the situation became so horrendous at  
18 one point that PLAINTIFF was homeless for a week as a result of his depression  
19 and did not want his children to see what their father had become. Hence, such  
20 events depicts the psychological and emotional and financial burden ROSS  
21 inflicted on PLAINTIFF and his family.

1       50. Aside from the struggles with his spouse, PLAINTIFF became  
2 uncharacteristically and noticeably abusive towards his children. He became easily  
3 annoyed and irritable with everything that went on. Furthermore, his eldest child  
4 continued to question her parents' love for her as a result of the continuous arguing  
5 within the household and the lack of affection between the couple. Being a father of  
6 young children, PLAINTIFF did not have the chance to enjoy these precious and  
7 memorable years due to his depression, anger, and sense of insecurity.

10  
11  
12       51. PLAINTIFF has also suffered humiliation and shame from within his  
13 family, relatives, and spouse's relatives. Hence, his reputation has been tarnished  
14 and his livelihood taken away. For example, he would seldom attend family  
15 get-togethers such as barbeques and birthday parties due to fear of rejection,  
16 ridicule, and judgment. In several instances, his spouse's relatives questioned why  
17 she would still be involved with such a "loser". His spouse's father, a person  
18 PLAINTIFF sees daily, would often call him a "deadbeat" and mutter words in  
19 Spanish to neighbors. Also, PLAINTIFF's parents would not know what to say  
20 when asked of their child's life situation. Such feelings of shame and humiliation  
21 has affected PLAINTIFF's emotional and psychological well-being as well as his  
22 relationships with the people who matter the most in his life.

52. To this day, PLAINTIFF remains in a state of “limbo”. He continues to experience extreme psychological and emotional distress and suffers relapses with OCD, and daily with his most recent diagnosis, Major Depression. He also has student loans totalling over \$140,000 and has been stripped of his personal liberty, self-esteem, reputation, and livelihood. Most importantly, PLAINTIFF has been unfairly denied the opportunity to become a physician, a dream he has worked very hard to attain throughout his entire life.

## STATEMENT OF CLAIMS

## **FIRST CAUSE OF ACTION**

*(Breach of implied-in-fact contract v. Defendant)*

53. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-52.

54. The ‘student-institutional’ relationship is an implied-in-fact contract between PLAINTIFF and ROSS upon PLAINTIFF’s enrollment and payment of tuition and fees. Likewise, the elements for a contract existed: offer and acceptance, consideration, and mutuality of intent. PLAINTIFF did all that was required of him based on the implied-in-fact contract (or was excused due to ROSS’ conduct towards PLAINTIFF).

1  
2       55. ROSS had an obligation to provide an educational environment  
3       conducive to learning, free from any form of harassment and discrimination. See  
4       Tedeschi v. Wagner College, 93 Misc. 2d 510, 402 N.Y.S.2d 967 (1978) aff'd, 70  
5       App. Div. 2d 934, 417 N.Y.S.2d 521 (1979).  
6  
7  
8  
9

10       56. ROSS breached this implied-in-fact contract as a result of Dr. Worrell  
11       Sanford's learner mistreatment towards PLAINTIFF, a major factor in causing  
12       PLAINTIFF's subsequent psychological and emotional detriment. This factored to  
13       be significant in affecting PLAINTIFF's overall academic performance and  
14       personal well-being. Furthermore, ROSS failed to take into account and address Dr.  
15       Sanford's conduct towards PLAINTIFF and how this affected PLAINTIFF's  
16       academic performance. Consequently, PLAINTIFF suffered damages resulting  
17       from learner mistreatment and ROSS' inability to execute this implied-in-fact  
18       contract satisfactorily.  
19  
20  
21  
22

23       57. For the foregoing reasons, ROSS breached this contract, thus leading to  
24       PLAINTIFF suffering damages. PLAINTIFF is entitled to remedies stemming from  
25       the breach of implied-in-fact contract and the ramifications resulting from such a  
26       breach, namely consequential damages such as income he would possibly receive  
27  
28

1 from the six or seven years of life lost as an aspiring psychiatrist in San Francisco,  
2 CA, and direct damages, such as an injunction, concomitantly, for him to re-enroll  
3 as a fourth semester student at ROSS or any comparably accredited medical school.  
4  
5 If this is not possible, then PLAINTIFF is instead entitled to a lifetime's  
6 psychiatrist salary in San Francisco, CA, as deemed appropriate upon final  
7 calculation of damages. There is precedent of an unfairly dismissed medical student  
8 winning a case and collected for lost past and future income. See *Sharick v.*  
9 *Southeastern University of Health Sciences*. Finally, PLAINTIFF is also entitled to  
10 special damages resulting from the hostile learning environment, unjust academic  
11 dismissals, and subsequent psychological trauma inflicted upon by ROSS.  
12  
13

## 16 **SECOND CAUSE OF ACTION**

17 (Breach of Contract v. Defendant)  
18

19 58. PLAINTIFF re-alleges and incorporates by reference allegations  
20 contained in ¶ 1-57.  
21  
22

23 59. The Student Handbook represents a binding contract. There is no  
24 dispute that this contract existed since the Handbook confers the elements of "offer,  
25 acceptance, and consideration." PLAINTIFF did everything possible according to  
26 the contract for the given circumstances. Furthermore, ROSS had an obligation to  
27  
28

1 follow their own written rules and to refrain from arbitrary, capricious, and  
2 egregious treatment of its students. This conduct towards PLAINTIFF was  
3 inexcusable.  
4

5

6 60. ROSS specifically breached this contract when it was to “at particular  
7 points in the educational process... identify any academic difficulties that may or  
8 are developing,” particularly when it was unreasonable to expect PLAINTIFF to  
9 achieve nearly “straight A” grades during his fourth semester to attain the minimum  
10 2.00 GPA to advance to the fifth semester. Notwithstanding the “GPA factor”,  
11 ROSS still was obligated to identify PLAINTIFF as a risk to a “subject to  
12 dismissal” status and counsel him as required by the Student Handbook so that he  
13 would be cognizant of ROSS’ intentions of dismissing him if his performance did  
14 not improve substantially. PLAINTIFF read and took into account this section of  
15 the Handbook during his stint at ROSS.  
16  
17

18 61. As a result of this breach, PLAINTIFF spent unnecessary time as an  
19 enrolled student, unnecessary money on tuition, and underwent the unnecessary  
20 stress that comes with being a medical student as a result of his dismissal at the  
21 conclusion of the fourth semester.  
22  
23

62. Accordingly, PLAINTIFF unnecessarily enrolled in the fourth semester where he experienced grave psychological difficulties arising from the conduct of ROSS, leading to long-term psychological and emotional trauma thereafter. In essence, PLAINTIFF would have been “better off” if ROSS would have dismissed him during earlier semesters (despite the issues regarding change of the grading system without PLAINTIFF’s knowledge) so that he would not have undergone the issues that were present during his fourth semester. This ultimately led to the arbitrary and capricious dismissal of PLAINTIFF at the conclusion of the fourth semester.

63. As a result of this breach, PLAINTIFF was dismissed from ROSS and underwent “grave” psychological trauma during Semester 4 and upon his return to the United States of America after his dismissal in 2013. Furthermore, PLAINTIFF continues to endure psychological ill-health and undue hardship stemming from the unlawful acts of ROSS. Hence, PLAINTIFF suffered damages as a result of the breach of contract and is entitled to damages (and a possible injunction) as mentioned in ¶ 57.

### THIRD CAUSE OF ACTION

### *(Breach of Contract v. Defendant)*

64. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-63.

65. A clause within the ECR agreement was breached. Due to the breach it is necessary to disclose the agreement despite a confidentiality clause within the agreement.

66. There is no question that this contract existed. PLAINTIFF lived up to the end of the contract, whereas ROSS did not do so. ROSS' inability to execute properly the terms of the contract was inexcusable. As a result of the breach, PLAINTIFF suffered injuries and is entitled to damages (and a possible injunction) as mentioned in ¶ 57.

## **FOURTH CAUSE OF ACTION**

(*Fraud v. Defendant*)

67. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-66.

68. ROSS deceived PLAINTIFF during ADR in 2011, leading to a very unconscionable clause within the ECR agreement. A fraudulent representation was

1 made, in which ROSS knew to be untrue and was made for PLAINTIFF to rely on  
2 such information, PLAINTIFF relied on this information during mediation, thus  
3 leading to the adverse academic situation and subsequent academic dismissal of  
4 PLAINTIFF. However, the agreement is confidential and cannot be disclosed as of  
5 yet.  
6  
7  
8

9 69. In summary, ROSS misrepresented a material fact and knew of this.  
10 Such misrepresentation of material fact was intended to purposefully deceive  
11 PLAINTIFF, who heavily relied upon the misrepresented fact(s). As a result of  
12 such deception, PLAINTIFF suffered injuries and is entitled to the “benefit of the  
13 bargain”. Furthermore, such deception contributed to PLAINTIFF’s academic  
14 dismissal and subsequent psychological and emotional trauma, which still persists  
15 today. Hence, PLAINTIFF is entitled to damages (and a possible injunction) as  
16 mentioned in ¶ 57.  
17  
18

19  
20  
21 **FIFTH CAUSE OF ACTION**  
22

23 *(Misrepresentation/“Silent fraud” v. Defendant)*  
24  
25

26 70. PLAINTIFF re-alleges and incorporates by reference allegations  
27 contained in ¶ 1-69.  
28

1       71. ROSS failed to inform PLAINTIFF of any grading policy changes that  
2       would directly affect him. Such information was obviously unknown to  
3       PLAINTIFF and it was unlikely that PLAINTIFF would discover or inquire about  
4       such information. Hence, the elements for misrepresentation exist:

5           a. The defendant failed to disclose (willingly or not) material facts to  
6           PLAINTIFF for which it knew about.

7           b. The defendant's "silence" misled PLAINTIFF, which would have  
8           otherwise deterred PLAINTIFF from agreeing with the terms of the  
9           ECR agreement.

10           c. PLAINTIFF relied (hence, the defendant's "silence") on all disclosed  
11           information leading up to the ECR agreement.

12           d. PLAINTIFF incurred damages as a result of defendant's "silence" or  
13           misrepresentation.

14  
15  
16       72. As a result of nondisclosure and the subsequent effects such an "unfair  
17       surprise" had on the chances of PLAINTIFF of progressing through the medical  
18       curriculum, PLAINTIFF was unjustly dismissed from ROSS and is entitled to the  
19       "benefit of the bargain". Moreover, he is entitled to damages (including a possible  
20       injunction) as mentioned in ¶ 57.

## **SIXTH CAUSE OF ACTION**

*(Breach of Fiduciary Duty v. Defendant)*

73. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-72.

74. Although it is known historically that there is no fiduciary relationship between that of an educational institution and its students, the norm is set aside when the magnitude of the student-institution or student-instructor relationship is “more than a typical one”. Accordingly, ROSS had a fiduciary duty to PLAINTIFF to act with the utmost good faith and in his best interests, reaffirmed by the presence of a rather personal relationship a medical school has with its individual students, the incomparable and intimate trust to that of other professions and undergraduate institutions, advice given to students including PLAINTIFF, and the ECR agreement. Furthermore, the purpose of the ECR agreement was not to allow ROSS “off the hook” and continue its course of oppressive and arbitrary conduct, but for them to protect to a reasonable extent the interests of PLAINTIFF and to behave non-arbitrarily and professionally.

75. In the context of the medical school setting where professionalism is highly expected and valued, PLAINTIFF heavily relied on his instructors and

1 professors as mentors who would instill and provide him the knowledge to become  
2 a successful practitioner, while maintaining high ethical standards and an education  
3 free from a “hostile” learning environment (including **learner mistreatment**),  
4 arbitrary conduct and discrimination. ROSS was well aware of PLAINTIFF’s  
5 vulnerability as a student with a disability, his long-standing history with ROSS,  
6 including concerns regarding unfair grading policies, the deceptive and seemingly  
7 unconscionable nature of the ECR agreement, and the unfortunate situation arising  
8 during his fourth semester. To this account, it is evident that ROSS failed to  
9 exercise to the level of care expected of educators and educational administrators in  
10 this context.

11  
12  
13  
14  
15  
16 76. Lacking regard of one’s personal liberties, reputation, and livelihood,  
17 ROSS acted oppressively, egregiously, and arbitrarily in breach of duties as  
18 educational and educational administrative providers. Hence, ROSS did not live up  
19 to its educational mission as “One School, One Team”.

20  
21  
22  
23 77. As discussed above, the elements for a breach of fiduciary duty was  
24 imminent:

25  
26 a. There was an existence of a fiduciary duty.  
27 b. There was a breach of this duty.

c. The damages or suffering incurred by PLAINTIFF was a proximate cause of the breach of fiduciary duties.

As a legal result, PLAINTIFF was injured and entitled to consequential and special damages (and a possible injunction) arising out of the fiduciary breach.

FURTHERMORE, PLAINTIFF is entitled to punitive damages as permitted under C.P.P. § 3294, as a result of ROSS' oppressive and arbitrary conduct.

## **SEVENTH CAUSE OF ACTION**

*(Breach in Covenant v. Defendant)*

78. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-77.

79. By enrolling at ROSS, there is an implied student-institutional relationship that must be met with the utmost good faith in performance of duties from both parties. Arbitrary and oppressive action on behalf of ROSS deprived PLAINTIFF to reap the benefits of an education as a consumer of education. Furthermore, the ECR agreement also renders a contractual obligation in which both sides are to act in good faith, even during formation of the agreement since notions of good faith and fair dealing mandates disclosure, which lies, in part, in fraud, deceit, and misrepresentation.

1  
2       80. Despite the presence of these contracts, ROSS acted in bad faith even  
3 after PLAINTIFF expressed his concerns regarding the ECR agreement to ROSS.  
4 Furthermore, any reasonable person would view the agreement as unconscionable  
5 or disproportionate, thus establishing a bad faith motive due to ROSS' inability to  
6 reasonably and justifiably remedy PLAINTIFF's concerns. Notwithstanding the  
7 agreement, the implied contract (student-institutional relationship) requires that  
8 ROSS carry out its obligated duties with the utmost reasonable care.  
9  
10  
11  
12  
13       81. As mentioned within this section, the elements existed for a breach of  
14 covenant:  
15  
16           a. PLAINTIFF and the defendant entered into a contract and/or  
17                   implied-in-fact contract upon PLAINTIFF's enrollment at Ross  
18                   University School of Medicine.  
19  
20           b. PLAINTIFF did all that was required of him of the contract or  
21                   was excused based on the circumstances and as a result of the  
22                   defendant's misconduct.  
23  
24           c. The defendant unfairly interfered with PLAINTIFF's right to  
25                   reap the benefits of the contract, namely to receive an education  
26                   free from hostility and harassment.  
27  
28

d. As a legal result of the breach of fiduciary duties, PLAINTIFF was harmed and is entitled to damages (and a possible injunction) as mentioned in ¶ 57.

## **EIGHTH CAUSE OF ACTION**

*(in violation of California's Unfair Competition Law v. Defendant)*

82. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-81.

83. For reasons set forth in Paragraphs 1 through 79, ROSS’ business conduct satisfies at least one of the three prongs (unfair, unlawful, fraudulent business acts or practices) in order to establish a UCL claim. See Prof. Bus. Code § 17200 et seq. The purpose of the UCL is to ‘protect both the consumers and competitors by promoting fair competition in commercial markets for goods and services’. Accordingly, ROSS acted arbitrarily towards PLAINTIFF throughout his stint at the School of Medicine, including issues pertaining to the formation and implementation of the ECR agreement, the student-institutional relationship, and his dismissal, which cannot be seen as a genuinely academic decision.

84. Furthermore, the contents or nature of the ECR agreement is similar to an advertisement, in which PLAINTIFF relied on the proposed clauses or omitted information on behalf of ROSS in deciding to prolong mediation, accept the agreement as is and re-enroll at ROSS, or continue with investigation during the OCR complaint process. PLAINTIFF even expressed concerns regarding the inequitable situation he was succumbed to and ROSS' refusal to remedy the issue can be seen as extremely unjust to any reasonable person. Hence, PLAINTIFF also incorporates a violation of Prof. Bus. Code § 17500 et seq. (as part of the UCL claim), false and/or misleading advertising or representation.

85. As discussed in this section, the elements for a UCL claim exists:

- a. ROSS engaged in unfair, deceptive, untrue or misleading advertisements in this case.
- b. PLAINTIFF suffered injury ‘in fact’ and lost money or property (or consortium) as a result of the unfair, deceptive, untrue or misleading advertisements in this case.

As a legal result, PLAINTIFF suffered injury ‘in fact’ and has incurred monetary losses from tuition payments, miscellaneous expenses, including but not limited to cost of airline tickets, and future and past income lost, as a result of ‘unfair’ competition and getting the “lower end of the bargain” as it pertains to the

1 student-institutional relationship and the ECR agreement due to bad faith  
2 bargaining. Hence, PLAINTIFF has standing for a UCL claim and is entitled to  
3 damages (and a possible injunction) as mentioned in ¶ 57.  
4

5  
6 **NINTH CAUSE OF ACTION**  
7

8 (in violation of California Education Code § 94814 v. Defendant)  
9

10 86. PLAINTIFF re-alleges and incorporates by reference allegations  
11 contained in ¶ 1-82.  
12

13 87. PLAINTIFF has standing to bring forth violation(s) in Calif. Edu. Code  
14 § 94814 as a private right of action. See *Daghlian v. DeVry University, Inc.*  
15

16  
17 88. Section 92814(a) makes it mandatory for post-secondary institutions to  
18 "provide to students and other interested persons, prior to enrollment, a catalog[ue]  
19 or brochure containing... all... material facts concerning the institution and the  
20 program or course of instruction that are reasonably likely to affect the decision of  
21 the student to enroll..." Failure to disclose information renders a written contract  
22 unenforceable under Calif. Educational Code § 94814(b).  
23  
24  
25  
26  
27  
28

90. Even though the formation of the ECR agreement occurred after PLAINTIFF's initial enrollment at ROSS in 2011, the formation of the ECR agreement can be seen as a pre-enrollment or recruiting matter since PLAINTIFF was seeking readmission. ROSS' failure to inform PLAINTIFF of grading policy changes prior to his re-matriculation in 2012 (in addition to fraud during the ECR agreement) is in violation of § 94814 because such omissions and fraudulent representations would have otherwise affected PLAINTIFF's decision to re-enroll, prolong mediation, or proceed with investigation during the OCR complaint process. Even after PLAINTIFF expressed the unfair situation he faced upon re-matriculation, ROSS failed and was unwilling to rectify the issue, a situation which can be seen as unjust to any reasonable person.

91. As a legal result of the foregoing, it is clear that the defendant violated the California Education Code § 94814. Moreover, PLAINTIFF suffered injury ‘in fact’ as a result of this violation and is entitled to damages (and a possible injunction) as mentioned in ¶ 57.

## **TENTH CAUSE OF ACTION**

### *(Negligence v. Defendant)*

92. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-91.

93. Due to irrational, oppressive, arbitrary, and negligent conduct on behalf of ROSS, PLAINTIFF suffered severe emotional and psychological injuries. Furthermore, ROSS has unfairly “destroyed and played with the career” of PLAINTIFF and caused the loss of consortium between PLAINTIFF and his family, in particular with his significant other.

94. ROSS owed a duty to PLAINTIFF to act according with educational and administrative matters absent of arbitrary, oppressive, unfair conduct. ROSS failed this duty as an educational institution of higher learning as reasonably discussed.

95. Evidently, ROSS' actions were an actual and proximate cause of PLAINTIFF's injuries. Hence, PLAINTIFF is entitled to damages (and a possible injunction) as mentioned in ¶ 57.

## **ELEVENTH CAUSE OF ACTION**

*(Infliction of emotional distress v. Defendant)*

1       96. PLAINTIFF re-alleges and incorporates by reference allegations  
2 contained in ¶ 1-95.  
3  
4

5       97. ROSS' conduct towards PLAINTIFF, including but not limited to the  
6 capricious and arbitrary academic dismissals of PLAINTIFF and matters pertaining  
7 to and leading up to the formation of the ECR agreement, showed extreme  
8 recklessness and disregard for the goodwill of PLAINTIFF. Moreover, such  
9 conduct was outrageous and oppressive (destroying one's career aspirations,  
10 emotional and psychological well-being, and at the same time putting PLAINTIFF  
11 under enormous financial debt and caused loss of consortium).  
12  
13

14       98. The elements existed for an emotional distress claim:  
15  
16           a. The defendant's administrative conduct towards PLAINTIFF  
17                   was reckless.  
18  
19           b. PLAINTIFF suffered severe emotional distress.  
20  
21           c. The defendant's reckless conduct was a substantial factor in  
22                   causing severe emotional distress on PLAINTIFF.  
23

24       Such reckless and outrageous conduct is the cause of PLAINTIFF's emotional  
25       distress, which includes humiliation, shame, anxiety, anguish, nervousness,  
26       suffering, and is accounted for and well-documented by PLAINTIFF's psychiatrist.  
27  
28

Despite PLAINTIFF's pre-existing condition of OCD, this condition was exacerbated and even a "normal" or reasonable person would not be able to cope with the "pain" as a result of the defendant's unjust, arbitrary, and egregious conduct.

99. As a legal result, PLAINTIFF suffered severe emotional and mental distress and is entitled to damages arising from an emotional distress claim as permitted by law.

## **TWELFTH CAUSE OF ACTION**

*(in violation of ADA v. Defendant)*

100. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-99.

101. Since ROSS defrauded and misrepresented information during and leading up to the ECR agreement, the agreement shall be deemed void. Hence, PLAINTIFF requests that ROSS shall not be “free” from any wrongdoing prior to the agreement.

1           102. In January of 2011, ROSS failed to provide PLAINTIFF with  
2 reasonable academic accommodations. Even though ROSS did not admit fault, it is  
3 evident that ROSS was liable for violating federal law requiring that educational  
4 institutions receiving federal financial assistance provide “qualified” individuals  
5 with a disability reasonable accommodations. Hence, PLAINTIFF wishes to pursue  
6 this cause of action in federal court since the complaint filed in 2011 cannot be  
7 reopened.

8           103. The elements for a violation of the Americans with Disabilities Act exist  
9 in this case:

10           a. PLAINTIFF has an educational-related disability as defined by the  
11           ADA.

12           b. PLAINTIFF informed the defendant of PLAINTIFF’s disability and his  
13           status of requiring appropriate academic accommodations.

14           c. As an institution accepting US federal funding, ROSS had an obligation  
15           to comply with the ADA and provide PLAINTIFF with appropriate  
16           academic accommodations.

17           d. The defendant failed to provide the appropriate academic  
18           accommodations or was deemed reasonably inadequate.

e. As a result of the defendant's inability to provide appropriate academic accommodations and redress this issue (in good faith), PLAINTIFF suffered.

104. As a legal result, PLAINTIFF seeks an injunction for the creation of a new or revised agreement and/or damages resulting from violation of the ADA. It is also important to note that pursuing this cause of action is contingent upon whether or not the ECR agreement will be deemed void since the actions arising from this cause of action occurred in 2011 and was initially in concordance with the ECR agreement. Hence, the statute of limitations for an ADA claim would have expired and PLAINTIFF would automatically lose his case to pursue this cause of action. If the ECR agreement is deemed void, accrual for this cause of action should not begin until May 2013 when PLAINTIFF “can be held to be ‘injured’ only when the accumulated effects . . . **manifests** themselves.” The statute of limitation for an ADA claim is 4 years (of total accrual).

## THIRTEENTH CAUSE OF ACTION

*(in violation of Civil Rights Act of 1964 v. Defendant)*

105. PLAINTIFF re-alleges and incorporates by reference allegations contained in ¶ 1-104.

1  
2 106. ROSS receives US federal funding from the US Department of  
3 Education, and hence, is not exempt from federal anti-discrimination laws,  
4 including but not limited to Title VI of the Civil Rights Act of 1964, which  
5 prohibits racial discrimination (42 U.S.C. § 2000(d)). Furthermore, the US Supreme  
6 Court has determined that individuals have a private right of action for a claim  
7 under Title VI. In this case, PLAINTIFF was subject to racial discrimination in his  
8 CCSB course.  
9  
10  
11  
12  
13 107. PLAINTIFF is a member of a “protected” racial group. PLAINTIFF  
14 was treated differently than similarly situated members of other racial groups with  
15 regard to a service, benefit, privilege, participation, etc. In this case, PLAINTIFF  
16 was denied the opportunity to participate under “fair” conditions as it pertains to  
17 PLAINTIFF being harassed and graded unfairly due to his national origin (See 34  
18 C.F.R. § 100.3(b)(1)(vi)). Discrimination was so severe, pervasive, and objectively  
19 offensive that it effectively barred PLAINTIFF access to an educational  
20 opportunity or benefit. PLAINTIFF was also denied the privileges enjoyed by  
21 others through participation (See 34 C.F.R. § 100.3(b)(1)(iv)).  
22  
23  
24  
25  
26  
27  
28

1           108. Furthermore, there is no legitimate or non-discriminatory reasons  
2           behind the discriminatory actions of PLAINTIFF's CCSB instructor, Dr. Worrell  
3           Sanford toward PLAINTIFF himself.  
4

5

6           109. Moreover, a prima facie case exists for racial discrimination:  
7

- 8           a. A racially hostile environment existed. ROSS receives federal  
9           funding from the US Department of Education, hence, must  
10           abide by US anti-discrimination laws. Furthermore, PLAINTIFF  
11           is a member of a "protected" racial group.  
12
- 13           b. The defendant had actual or constructive notice of the hostile  
14           (not racially, *per se*) environment. Hence, the defendant may  
15           have not known that there was a racially hostile environment.  
16           However, they were aware that a hostile environment did exist.  
17           Thus, this cause of action may be more difficult to prove.  
18
- 19           c. The defendant failed to respond adequately to redress the hostile  
20           environment. Even though PLAINTIFF was transferred to a  
21           different ICM instructor towards the *end* of the semester, the  
22           "fail" grades have already occurred at this point and was not  
23           accounted for after PLAINTIFF appealed his dismissal.  
24

1 As a legal result, PLAINTIFF is entitled to damages (and a possible injunction) as  
2 mentioned in ¶ 57.  
3  
4

5 **DISCUSSION FOR “PRAYER” FOR RELIEF**

6 110. It is also appropriate to claim for consequential damages for lost of  
7 future and past income (See *Sharick v. Southeastern University of Health Sciences,*  
8 *Inc.*) based on the “economic loss rule” (i.e. breach of implied contract) and tort  
9 liability (i.e. breach of fiduciary duty).  
10  
11

12  
13 111. Although it may be argued that claiming damages for *lost of future and*  
14 *past income* is with a scintilla of speculation of whether or not PLAINTIFF would  
15 ever become a psychiatrist (PLAINTIFF’s intended field of practice), it would be  
16 an unfair argument since PLAINTIFF was never given a fair opportunity to  
17 complete the medical curriculum and apply for residency as a result of his unjust  
18 dismissals. Furthermore, at the time of PLAINTIFF’s acceptance into ROSS, his  
19 undergraduate GPA was above 3.65, which greatly exceeds the average acceptance  
20 GPA of 3.1-3.3. Hence, there is no question that PLAINTIFF is well-qualified to  
21 study medicine if given the necessary academic accommodations and fair  
22 treatment. Moreover, there is no other measurable basis to put PLAINTIFF back to  
23 a position of status quo prior to ROSS’ wrongdoings. But for ROSS’ liable actions,  
24  
25  
26  
27  
28

1 PLAINTIFF would be a satisfactory student (at worst) with the opportunity to  
2 complete his degree and apply for residency. Hence, PLAINTIFF is entitled to lost  
3 of past and future income. If lost of future and past income is not warranted, lost of  
4 past income AND an injunction to return to medical school should (at least) be  
5 warranted.

6  
7  
8  
9 112. Furthermore, it is highly questionable if PLAINTIFF would be  
10 accepted into another medical school program, particularly because PLAINTIFF  
11 would be required to disclose information regarding prior attendance at medical  
12 schools. Hence, PLAINTIFF would not be able to attend another medical school  
13 and an injunction for PLAINTIFF to re-enroll at ROSS is the only path for him to  
14 pursue his dream of becoming a physician. This is only relevant if recovering lost  
15 of past and future income is not entertained.

16  
17  
18  
19  
20 113. However, PLAINTIFF does not have strong interest of being  
21 readmitted as a student at ROSS due to the longstanding negative history between  
22 them and fears of possible future acts of retaliation and harassment. Hence,  
23 readmission after being academically dismissed from the school twice based on  
24 discrimination and unfair treatment is impractical. However, PLAINTIFF is “open”  
25 to the idea of re-enrolling at ROSS if “protection” is provided for PLAINTIFF such  
26  
27  
28

1 that strict measures be implemented to ensure that discrimination or any oppressive  
2 acts do not occur in the future.  
3  
4

5 114. It is important to note that PLAINTIFF has an interest of becoming a  
6 psychiatrist, which on average earn more than a general practitioner (Sharick's  
7 intended field of practice). Also, the standard of living in San Francisco, CA  
8 (location of Plaintiff's permanent residence) is among the highest in the United  
9 States and should be considered upon computation of damages. This is relevant for  
10 calculation of damages.  
11  
12

13  
14 115. Finally, if lost of past and future income is not entertained, it should be  
15 warranted (at least) that judgment be in favor of PLAINTIFF for 7 years (lost of  
16 past income) of a typical psychiatrist's salary in San Francisco, CA, and an  
17 injunction for PLAINTIFF to re-enroll at ROSS and have his record modified to a  
18 "reasonable" extent to his "liking" that is deemed fair since the current transcript  
19 does not accurately and fairly depict his performance but for ROSS' liable actions.  
20 The amount of years indicated (7 years) is the time elapsed since PLAINTIFF's  
21 original matriculation at ROSS (January 2011) and the *earliest* time PLAINTIFF  
22 reasonably believes that he would re-enroll at ROSS at the conclusion of this  
23 lawsuit if the injunction is ordered (sometime in late 2017). According to  
24  
25  
26  
27  
28

1       www1.salary.com, the median income before taxes of a psychiatrist in San  
2       Francisco, CA is \$260,829 as of data reported in January 2017. This does not take  
3       into account the accrual of benefits PLAINTIFF would have received during these  
4       years, interest, and effects of inflation. The indicated amount of years elapsed (7  
5       years) may be increased depending when PLAINTIFF is allowed to enroll at the  
6       other medical school or be readmitted once again at ROSS. One year can be  
7       subtracted from the total number of years elapsed based on quantum meruit since  
8       PLAINTIFF had already completed three semesters before his dismissal.  
9  
10  
11

12  
13       116. PLAINTIFF requests that general damages be collected for pain and  
14       suffering, and undue hardship resulting from Defendant's liable actions. Although  
15       there is not an exact amount that could be calculated, the following should be  
16       considered (but not limited to) by the jury upon deciding an appropriate amount  
17       resulting from the "wrongs" committed by ROSS. Statements below can be  
18       supported by evidence from a medical professional if subpoenaed;

19  
20           a. Caused PLAINTIFF depression, anxiety, frequent thoughts of suicide  
21  
22           b. Caused PLAINTIFF to leave a field of work he dreamed of being in  
23  
24           c. Caused the deterioration of the PLAINTIFF's social life, particularly  
25           around his own family and spouse's family  
26  
27           d. Exacerbated a pre-existing condition of PLAINTIFF (OCD)  
28

- 1 e. Caused PLAINTIFF to live in destitute, resulting in PLAINTIFF and
- 2 his family to live under government assistance and spouse's income
- 3
- 4 f. Caused PLAINTIFF and spouse to live in crowded home with in-laws
- 5
- 6 g. Caused PLAINTIFF to have long-term feelings of helplessness and
- 7 hopelessness
- 8
- 9 h. Adversely affected PLAINTIFF's relationships with wife and children
- 10
- 11 i. Adversely affected PLAINTIFF's relationship with his spouse such that
- 12 the Plaintiff has been continuously denied sexual intimacy
- 13
- 14 j. Inflicted insecurity about PLAINTIFF's future and career, and his
- 15 inability to provide emotional and financial support for his spouse and
- 16 children, thus making PLAINTIFF feel "less of a man"
- 17
- 18 k. Caused an undue burden on PLAINTIFF's family by forcing wife to
- 19 return to work to support the family
- 20
- 21 l. Has perhaps attributed to PLAINTIFF's emerging gambling addiction
- 22 in order to cope with his distressing situation in life
- 23
- 24 m. May have caused PLAINTIFF to have a reduced or shortened lifespan
- 25 due to physical and exacerbated mental health problems
- 26
- 27
- 28

**WHEREFORE**, PLAINTIFF prays for judgment against ROSS as follows:

1        1) For *lost of past and future income* totalling \$4,433,562 USD, according to

2        preponderance of proof OR

5        2) For *lost of past income* totalling \$1,217,189.83 USD, and an injunction to

6        reinstate PLAINTIFF as a fourth semester student and modification of grades that

7        is deemed “reasonable” to PLAINTIFF’s liking (since PLAINTIFF never got a

9        “fair shot”, even during his first stint), according to preponderance of proof AND

12        3) For emotional distress, *pain and suffering and undue hardship* totalling

13        \$2,216,781 as determined by multiplying lost of past and future income damages

14        by a minimum factor of 1.5, according to preponderance of proof AND

17        4) For *punitive damages* pursuant to C.P.P. § 3294 as a result of egregious and

19        oppressive conduct on behalf of ROSS, according to preponderance of proof AND

22        5) Procedural and miscellaneous costs including, but not limited to, out-of-state

23        service of process AND

26        6) For such and further relief as the court deems just and proper.

7) As a side note, PLAINTIFF is *may* be willing to negotiate non-monetary relief if doing so would save time and relieve further emotional and psychological stress this situation has caused him, allowing him to “move on” in life from the injustices caused by the defendant.

DATED: July 3, 2017

**David T. Tran** (I consent this to be my electronic signature)

By: David T. Tran, *pro se* litigant

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28